

REMARKS

Claims 44-59, 71-85, and 122-139 were pending and presented for examination and in this application. In a final Office Action dated February 25, 2009, claims 44-59, and 71-85 were rejected. No mention was made of claims 122-139 on the Office Action Summary. Applicants thank the Examiner for examination of the claims pending in this application and addresses the Examiner's comments below. Based on the above Amendments and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections, and withdraw them.

Interview Summary

Applicants have communicated extensively with the Examiner since March. Specifically, telephone conversations took place between Examiner Weisberger and Applicants' representative Jennifer Bush on March 18, April 2, April 10, May 27, July 20 (also call to SPE on same date), July 28, August 3, August 4, August 13 (formal interview), August 19, and August 25; in addition, email correspondence was exchanged on April 10, May 7, June 8, June 16 (with copy to SPE), August 5, August 13, August 25.

In March, April, and May Applicants brought to the attention of the Examiner the fact that claims 122 forward were not addressed in the final office action, and the Examiner agreed to issue a new action, per the Interview Summary filed June 8, 2009. In later July and August, the Examiner suggested that the case maybe close to allowance if certain amendments were made, and Applicants' representative worked with the Examiner to try to come to agreement on such an amendment. However, by August 19, no agreement had been reached and Applicants' representative requested that the replacement action be submit, and Examiner Weisberger agreed to do so. However, no replacement action was showing in

PAIR as of today's date, so Applicants are submitting this reply to avoid abandonment of the application. The amendments herein are per the suggestion of the Examiner, and thus are believed to place the case in condition for allowance.

Improper Final Rejection

Applicants submit that the current action was improperly made final, as claims 122, 123, 127-134, and 139 were not discussed by the Final Action. Since this was the first action citing the current art, these claims have not been substantively rejected. These errors substantially affect Applicants' ability to properly reply to the Final Office Action or to proceed to appeal. Thus, Applicants request withdrawal of the finality of the action. MPEP 710.06.

Response to Rejection Under 35 U.S.C. § 112, Paragraph 2

In the final Office Action, claims 44-59 and 71-85 were rejected under 35 U.S.C. § 112, ¶ 2 as allegedly not specifically pointing out and distinctly claiming the subject matter that the Applicants regard as their invention.

Applicants have amended claims 44, 71, and 122 to clarify the steps involved in automatic authentication per the Examiner's recommendations during the above-referenced telephone interviews. In addition, Applicants direct the Examiner's attention to the explicit description of automatic authentication in the specification.

This amendment has been made to improve readability of the claims, and does not narrow the scope of protection with respect to the prior art, or with respect to potentially infringing devices/compositions/articles.

Response to Rejection Under 35 U.S.C. § 102(e)

In the final Office Action, claims 44 and 71 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 5,835,896 (“Fisher”). This rejection now is traversed.

Claim 44 recites, *inter alia*: “determining by the server computer accessing a field in a user database that stores a setting whether automatic authentication has been previously enabled or disabled by a user associated with the information identifying the client computer.”

Fisher does not disclose or suggest this aspect of the claimed invention. Specifically, Fisher merely looks up a customer based on a bid received. *See, e.g.*, Fisher, FIG. 5, col. 8, ll. 30-41. However, Fisher does not access **a database storing automatic authentication settings**, nor **associating a user with the client computer** from which the bid request is received. Thus, claim 44 is patentably distinguishable over Fisher for at least this reason.

Independent claims 71 and 122 also are patentably distinguishable over Fisher for the above reason.

Claims 45, 49-58, 72, 75-84, 123, 127-134, and 139 variously depend from claims 44, 71, and 122, which were shown above to be patentable over the cited reference and which recite additional features not shown in the cited reference. For these reasons, Applicants submit that claims 45, 49-58, 72, 75-84, 123, 127-134, and 139 also are patentably distinguishable over the cited reference.

Response to Rejection Under 35 U.S.C. § 103(a)

In the final Office Action, Examiner rejects claims 44-59 and 71-85 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Fisher in view of U.S. Patent No. 6,301,661 (“Shambroom”). This rejection now is traversed.

Claims 45, 49-58, 72, 75-84, 123, 127-134, and 139 were shown above to be patentably distinguishable over Fisher. Shambroom does not remedy the above-discussed deficiencies of Fisher, nor does the Office Action allege that it does. Rather, Shambroom is merely cited for the use of cookies in an authentication method.

Thus, the deficient disclosures of these references, considered either alone or in the combination suggested by the Examiner, fail to establish even a *prima facie* basis from which a proper determination of obviousness under 35 U.S.C. §103(a) can be made. Applicants submit that claims 45, 49-58, 72, 75-84, 123, 127-134, and 139 are patentably distinguishable over the cited references.

Conclusion

In sum, Applicants respectfully submit that claims 44-45, 48-58, 71-72, 74-84, 122-123, 126-134, and 139, as presented herein, are patentably distinguishable over the cited references. Therefore, Applicants request reconsideration of the basis for the rejections to these claims and request allowance of them.

In addition, Applicants respectfully invite the Examiner to contact Applicants' representative at the number provided below if the Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,

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